UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK

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JESSE ROSEN,

Plaintiff

-against-

THE CITY OF NEW YORK, NEW YORK CITY HEALTH AND HOSPITALS CORPORATION, PRISON HEALTH SERVICES, INC., MARTIN F. HORN, Commissioner of the New York City Department of Correction, OFFICER JOHN DOE, Said name being fictitious, being intended to Designate the City of New York Correction Officer Designated herein, OFFICER RICHARD ROE, said Name being fictitious, being intended to designate the City of New York Correction Officer involved in the Action herein, and JOHN DOE, M.D., said name being Fictitious, being intended to designate the physician Involved in the action herein,

Defendant.

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Civil Action No:
07 CV. 6018 (VM)

RESPONSE PURSUANT TO F.R.C.P. RULE 26

C O U N S E L :

PLEASE TAKE NOTICE that pursuant to Federal Rules of Civil Procedure, Rule 26, the undersigned provides the following information and documents to defendant's counsel:

Rule 26(a)(1)(A),(B),(C) Initial Disclosure

A. The following individuals may have information pertaining to the happening of this accident; plaintiff's physical condition subsequent to the accident; and the nature of plaintiff's injuries and the course of medical care and treatment:

1. Jesse Rosen, 126-16 20th Avenue, College Point, New York 11356.

2. Benjamin David, address unknown.

3. Jeffrey Schuman, address unknown.

4. Employees, correction officers, and other agents and/or servants of the defendants on duty at or about the time of the incident complained of herein, namely June 21, 2006, at approximately 11:20 a.m., names unknown, identities presently unknown.

5. Correction Officer Latky, present address and employment status unknown but who at the time of the incident, upon information and belief was the employ of the defendants herein.

6. Jason Campbell, who upon information and belief was an inmate at Riker's Island at the time of the incident complained of in this litigation.

7. Staff, physicians, nurses and other personnel connected with Elmhurst Hospital Center, 79-01 Broadway, Elmhurst, New York 11373.

8. Staff, physicians, nurses and other personnel at Bellevue Hospital, 462 First Avenue @ 27th Street, New York, New York 10016.

9. Staff, physicians, nurses and other personnel connected with Riker's Island and the named defendants herein, names and identities unknown.

10. Any and all witnesses whose names, addresses and identities were obtained by the defendant at the site of the incident complained of in this litigation which occurred on June 21, 2006.

The plaintiff reserves the right to amend this subdivision following discovery and as later information and identifications of potential witnesses are obtained.

B. The following documents will be used at the time of trial to support plaintiff's claims:

1. Elmhurst Hospital medical records for hospitalization subsequent to the incident complained of herein, including medical records, diagnostic films and bills.

2. Medical records of Bellevue Hospital, New York, New York, for hospitalization pertaining to treatment rendered following the incident complained of herein including records, diagnostic films and tests and bills.

3. Plaintiff reserves the right to supplement these provisions as identification of further documents are made available and identified.

C. Plaintiff submits the following computation of special damages sustained pursuant to Rule 34:

1. Hospital care for care rendered at Elmhurst Hospital, Queens, New York: presently unknown

2. Hospital care for care rendered at Bellevue Hospital, New York, New York: presently unknown

The plaintiff reserves the right to amend these provisions as exact billing is obtained and in the event that and to the extent that plaintiff receives further care for the injuries sustained as a result of the incident claimed herein.

D. Not applicable

F.R.C.P. RULE 26(a)(2)

Other than the medical facilities which have treated plaintiff as detailed above, expert witness information is not presently available. Expert witnesses, medical and non-medical have not yet been retained to date.

F.R.C.P. RULE 26(A)(3)

A. The following individuals may have information pertaining to the

happening of this accident; plaintiff's physical condition subsequent to this accident; and the nature of plaintiff's injuries and plaintiff's course of medical care and treatment:

1. Jesse Rosen, 126-16 20th Avenue, College Point, New York 11356.

2. Benjamin David, address unknown.

3. Jeffrey Schuman, address unknown.

4. Employees, correction officers, and other agents and/or servants of the defendants on duty at on or about the time of the incident complained of herein, namely June 21, 2006, at approximately 11:20 a.m., names unknown, identities presently unknown.

5. Correction Officer Latky, present address and employment status unknown but who at the time of the incident, upon information and belief was the employ of the defendants herein.

6. Jason Campbell, who upon information and belief was an inmate at Riker's Island at the time of the incident, complained of in this litigation.

7. Staff, physicians, nurses and other personnel connected with Elmhurst Hospital Center, 79-01 Broadway, Elmhurst, New York 11373.

8. Staff, physicians, nurses and other personnel at Bellevue Hospital, 462 First Avenue @ 27th Street, New York, New York 10016.

9. Staff, physicians, nurses and other personnel connected with Riker's Island and the named defendants herein, names and identities unknown.

10. Any and all witnesses whose names, addresses and identities were obtained by the defendant at the site the incident complained of in this litigation which occurred on June 21, 2006.

B. Proposed deposition witnesses:

As the defendant has not yet provided the identities of witnesses, actual or potential to the event, plaintiff must reserve the right to depose the following:

1. All eyewitnesses of the defendant pertaining to the incident complained of herein which occurred on June 21, 2006.

2. All employees, agents and/or servants of the defendants on duty as of June 21, 2006 and prior thereto who possess knowledge and information as to the daily workings and environment at the Riker's Island facility, namely the portion of the facility where the complained of event occurred.

3. All employees, agents and/or servants of the defendant who witnessed the actual incident complained of herein.

4. All employees, agents and/or servants of the defendant who rendered any treatment and/or medical care to plaintiff following the complained of incident.

5. Plaintiff reserves the right to supplement these demands upon obtaining discovery from the defendant.

C. The following documents will be used at the time of trial to support plaintiff's claims:

1. Elmhurst Hospital Center, 79-01 Broadway, Elmhurst, New York 11373, including all medical records, diagnostic films and certified bills.

2. Bellevue Hospital, 462 First Avenue @ 27th Street, New York, New York 10016, including all medical records, diagnostic films and certified bills.

3. All documents obtained during the course of discovery from defendants pertaining to the scope of the litigation herein.

Plaintiff reserves the right to supplement these provisions as identifications of further documents are made available and identified.

Dated: New York, New York
October 18, 2007

Yours, etc.,

PAZER & EPSTEIN, P.C.

By: _____
MICHAEL JAFFE (MJ 8319)
Attorneys for Plaintiff(s)
20 Vesey Street
New York, NY 10007
(212) 227-1212

TO: Michael A. Cardozo
Corporation Counsel
Attorneys for Defendant
100 Church Street
New York, New York 10007
(212) 788-0869

OCA Official Form No.: 960

AUTHORIZATION FOR RELEASE OF HEALTH INFORMATION PURSUANT TO HIPAA

[This form has been approved by the New York State Department of Health]

Patient Name	Date of Birth	Social Security Number
Jesse Rosen	12/13/80	104-64-9071
Patient Address: 126-16 20th Avenue, College Point, New York 11356		

I, or my authorized representative, request that health information regarding my care and treatment be released as set forth on this form:

In accordance with New York State Law and the Privacy Rule of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), I understand that:

1. This authorization may include disclosure of information relating to **ALCOHOL** and **DRUG ABUSE, MENTAL HEALTH TREATMENT**, except psychotherapy notes, and **CONFIDENTIAL HIV* RELATED INFORMATION** only if I place my initials on the appropriate line in Item 9(a). In the event the health information described below includes any of these types of information, and I initial the line on the box in Item 9(a), I specifically authorize release of such information to the person(s) indicated in Item 8.
2. If I am authorizing the release of HIV-related, alcohol or drug treatment, or mental health treatment information, the recipient is prohibited from redisclosing such information without my authorization unless permitted to do so under federal or state law. I understand that I have the right to request a list of people who may receive or use my HIV-related information without authorization. If I experience discrimination because of the release or disclosure of HIV-related information, I may contact the New York State Division of Human Rights at (212) 480-2493 or the New York City Commission of Human Rights at (212) 306-7450. These agencies are responsible for protecting my rights.
3. I have the right to revoke this authorization at any time by writing to the health care provider listed below. I understand that I may revoke this authorization except to the extent that action has already been taken based on this authorization.
4. I understand that signing this authorization is voluntary. My treatment, payment, enrollment in a health plan, or eligibility for benefits will not be conditioned upon my authorization of this disclosure.
5. Information disclosed under this authorization might be redisclosed by the recipient (except as noted above in Item 2), and this redisclosure may no longer be protected by federal or state law.
6. **THIS AUTHORIZATION DOES NOT AUTHORIZE YOU TO DISCUSS MY HEALTH INFORMATION OR MEDICAL CARE WITH ANYONE OTHER THAN THE ATTORNEY OR GOVERNMENTAL AGENCY SPECIFIED IN ITEM 9 (b).**

7. Name and address of health provider or entity to release this information:
Elmhurst Hospital Center, 79-01 Broadway, Elmhurst, New York 11373

8. Name and address of person(s) or category of person to whom this information will be sent:*
Michael A. Cardozo, Corporation Counsel, 100 Church Street, New York, NY 10007

9(a). Specific information to be released:

- ☑ Medical Record from (insert date) 6/21/06 to (insert date) **PRESENT**
- ☑ Entire Medical Record, including patient histories, office notes (except psychotherapy notes), test results, radiology studies, films, referrals, consults, billing records, insurance records, and records sent to you by other health care providers.
- ☐ Other: _____

Include: (*Indicate by Initialing*)

- x_____ **Alcohol/Drug Treatment**
- ^_____ **Mental Health Information**
- ✓_____ **HIV-Related Information**

Authorization to Discuss Health Information

(b) ☑ By initialing here x (Initials) I authorize _____ (Name of individual health care provider) to discuss my health information with my attorney, or a governmental agency, listed here:
PAZER & EPSTEIN, P.C.,
(Attorney/Firm Name or Governmental Agency Name)

10. Reason for release of information:	11. Date or event on which this authorization will expire:
☐ At request of individual ☑ Other: **LITIGATION**	**AT THE CONCLUSION OF MY CASE**
12. If not the patient, name of person signing form:	13. Authority to sign on behalf of patient:

All items on this form have been completed and my questions about this form have been answered. In addition, I have been provided a copy of the form.

x _____
Signature of patient or representative authorized by law.

Date: 9/5/07

* **Human Immunodeficiency Virus that causes AIDS. The New York State Public Health Law protects information which reasonably could identify someone as having HIV symptoms or infection and information regarding a person's contacts.**

OCA Official Form No.: 960

AUTHORIZATION FOR RELEASE OF HEALTH INFORMATION PURSUANT TO HIPAA

[This form has been approved by the New York State Department of Health]

Patient Name	Date of Birth	Social Security Number
Jesse Rosen	12/13/80	104-64-9071

Patient Address: 126-16 20th Avenue, College Point, New York 11356

I, or my authorized representative, request that health information regarding my care and treatment be released as set forth on this form:

In accordance with New York State Law and the Privacy Rule of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), I understand that:

1. This authorization may include disclosure of information relating to **ALCOHOL** and **DRUG ABUSE, MENTAL HEALTH TREATMENT**, except psychotherapy notes, and **CONFIDENTIAL HIV* RELATED INFORMATION** only if I place my initials on the appropriate line in Item 9(a). In the event the health information described below includes any of these types of information, and I initial the line on the box in Item 9(a), I specifically authorize release of such information to the person(s) indicated in Item 8.
2. If I am authorizing the release of HIV-related, alcohol or drug treatment, or mental health treatment information, the recipient is prohibited from redisclosing such information without my authorization unless permitted to do so under federal or state law. I understand that I have the right to request a list of people who may receive or use my HIV-related information without authorization. If I experience discrimination because of the release or disclosure of HIV-related information, I may contact the New York State Division of Human Rights at (212) 480-2493 or the New York City Commission of Human Rights at (212) 306-7450. These agencies are responsible for protecting my rights.
3. I have the right to revoke this authorization at any time by writing to the health care provider listed below. I understand that I may revoke this authorization except to the extent that action has already been taken based on this authorization.
4. I understand that signing this authorization is voluntary. My treatment, payment, enrollment in a health plan, or eligibility for benefits will not be conditioned upon my authorization of this disclosure.
5. Information disclosed under this authorization might be redisclosed by the recipient (except as noted above in Item 2), and this redisclosure may no longer be protected by federal or state law.
6. **THIS AUTHORIZATION DOES NOT AUTHORIZE YOU TO DISCUSS MY HEALTH INFORMATION OR MEDICAL CARE WITH ANYONE OTHER THAN THE ATTORNEY OR GOVERNMENTAL AGENCY SPECIFIED IN ITEM 9 (b).**

7. Name and address of health provider or entity to release this information:
Bellevue Hospital, 462 First Avenue @ 27th Street, New York, NY 10016

8. Name and address of person(s) or category of person to whom this information will be sent:*
Michael A. Cardozo, Corporation Counsel, 100 Church Street, New York, NY 10007

9(a). Specific information to be released:

- ☑ Medical Record from (insert date) 6/21/06 to (insert date) **PRESENT**
- ☑ Entire Medical Record, including patient histories, office notes (except psychotherapy notes), test results, radiology studies, films, referrals, consults, billing records, insurance records, and records sent to you by other health care providers.
- ☐ Other: _____

Include: (*Indicate by Initialing*)

- X Alcohol/Drug Treatment
- X Mental Health Information
- X HIV-Related Information

Authorization to Discuss Health Information

(b) ☑ By initialing here X (Initials) I authorize _____ (Name of individual health care provider) to discuss my health information with my attorney, or a governmental agency, listed here:

PAZER & EPSTEIN, P.C.,

(Attorney/Firm Name or Governmental Agency Name)

10. Reason for release of information:	11. Date or event on which this authorization will expire:
☐ At request of individual ☑ Other: **LITIGATION**	**AT THE CONCLUSION OF MY CASE**
12. If not the patient, name of person signing form:	13. Authority to sign on behalf of patient:

All items on this form have been completed and my questions about this form have been answered. In addition, I have been provided a copy of the form.

X _____
Signature of patient or representative authorized by law.

Date: 9/5/07

Human Immunodeficiency Virus that causes AIDS. The New York State Public Health Law protects information which reasonably could identify someone as having HIV symptoms or infection and information regarding a person's contacts.

Civil Action No.: 07 Civ. 6018

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JESSE ROSEN,

Plaintiff,

- against -

THE CITY OF NEW YORK, NEW YORK CITY HEALTH AND HOSPITALS CORPORATION, PRISON HEALTH SERVICES, INC., MARTIN F. HORN, Commissioner of the New York City Department of Correction, OFFICER JOHN DOE, said name being fictitious, being intended to designate the City of New York Correction Officer involved in the action herein, and JOHN DOE, M.D., said name being fictitious, being intended to designate the physician involved in the action herein,

Defendants.

RESPONSE PURSUANT TO F.R.C.P. RULE 26

PAZER & EPSTEIN, P.C.
Attorneys for Plaintiff(s)
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New York, NY 10007
(212) 227-1212